

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PEOPLES BANK, a Washington chartered bank,)	No.
)	
Plaintiff,)	COMPLAINT FOR TRADEMARK
)	INFRINGEMENT AND DILUTION
vs.)	
)	
PEOPLES BANK, a Kansas corporation,)	JURY TRIAL DEMANDED
Defendant.)	

Plaintiff brings this Complaint against Defendant and alleges as follows:

I. PARTIES

1.1. Plaintiff Peoples Bank (“**Peoples Bank**”) is a Washington chartered bank with its principal place of business at 3100 Woburn Street, Bellingham, Washington.

1.2. Defendant Peoples Bank (the “**Kansas Bank**”) is a corporation organized under the laws of the State of Kansas with its principal place of business at 4861 West Sixth Street, Lawrence, Kansas.

II. JURISDICTION AND VENUE

2.1. Subject matter jurisdiction exists under 28 U.S.C. § 1331, since Peoples Bank asserts a claim under the Lanham Act, 15 U.S.C. § 1125.

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No.
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2.2. Subject matter jurisdiction exists also under 28 U.S.C. § 1332(a)(1). The parties are citizens of different states (Washington and Kansas, respectively), and the amount in controversy exceeds \$75,000, exclusive of costs, as alleged more particularly below.

2.3. The Kansas Bank has subjected itself to the personal jurisdiction of this Court by, without limitation, transacting business and advertising its services in Washington. RCW 4.28.185(1)(a).

2.4. The Kansas Bank has solicited customers residing within the State of Washington, including, without limitation, customers residing in Whatcom County, Washington. Thus, venue is proper in this district, and assignment to the Court's Seattle division is appropriate. 28 U.S.C. § 1391(b)(2); LCR 3(d)(1).

III. FACTS

3.1. For over 90 years, Peoples Bank has advertised and sold personal and commercial banking services to consumers throughout Washington. It operates 24 branch offices in Washington and offers deposit, loan, and other financial products and services that it brands under the trademark PEOPLES BANK.

3.2. Peoples Bank was formed in 1920 in Washington under the name "Peoples State Bank." In 1994, Peoples Bank adopted an amendment to its articles of incorporation which officially changed its corporate name from Peoples State Bank to "Peoples Bank."

3.3. To protect its rights in the PEOPLES BANK mark, Peoples Bank registered "PEOPLES BANK" as a trademark in 1994 with the Washington Secretary of State. It has renewed that registration as and when required to do so under Washington law. Accordingly, Peoples Bank is entitled to the exclusive use of the PEOPLES BANK trademark in Washington.

3.4. Over the years, Peoples Bank has spent hundreds of thousands of dollars marketing its products and services, branding its branches, and building consumer recognition and goodwill using the PEOPLES BANK mark. The PEOPLES BANK mark has thereby become famous to Washington consumers in Washington, who understand and expect that

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1 Peoples Bank is the origin of any financial products and services offered in Washington under
2 the PEOPLES BANK mark, or any other combination of words using "PEOPLES" in offering
3 banking and/or financial products and services in Washington.

4 3.5. This consumer recognition is valuable to Peoples Bank. The profits it derives
5 from products and services it markets in Washington under the PEOPLES BANK and PEOPLES
6 marks (collectively, "PEOPLES MARKS") far exceed \$75,000 per year.

7 3.6. In 2012, Peoples Bank learned that the Kansas Bank had begun to solicit
8 Washington consumers for financial products and services using the PEOPLES MARKS. The
9 Kansas Bank owns neither Washington nor federal registrations of the PEOPLES MARKS. The
10 Kansas Bank has not registered to do business in Washington with the Secretary of State nor
11 registered as a bank or savings institution with Washington's Department of Financial
12 Institutions.

13 3.7. The Kansas Bank has solicited and, upon information and belief, continues to
14 solicit, through direct mailings and/or similar means, the sale of financial products and services
15 to Washington consumers using the PEOPLES MARKS. For example, the Kansas Bank has
16 offered home mortgage refinancing products to customers in Whatcom County, using the
17 PEOPLES MARKS in its direct mailings to such Washington consumers. Peoples Bank offers
18 home mortgage refinancing products to customers in Whatcom County and elsewhere throughout
19 the state.

20 3.8. Upon information and belief, the Kansas Bank is offering other products and
21 services under the PEOPLES MARKS to consumers in Washington that are the same or
22 substantially similar to those Peoples Bank offers.

23 3.9. Consumers are likely to be confused about the source of the products and services
24 that the Kansas Bank is offering under the PEOPLES MARKS. The Kansas Bank is infringing
25 and diluting the brand recognition in the PEOPLES MARKS that Peoples Bank has spent
26

decades building in Washington and is capitalizing on the goodwill that Peoples Bank has earned in Washington since Peoples Bank's formation in 1920.

3.10. In 2012, to protect and defend its trademark rights, Peoples Bank sent a letter to the Kansas Bank (Exhibit A to this Complaint) informing the Kansas Bank of Peoples Bank's prior and exclusive rights to use the PEOPLES MARKS in Washington. The Kansas Bank sent a letter (Exhibit B to this Complaint) assuring Peoples Bank that the Kansas Bank would stop using the PEOPLES MARKS and would indicate clearly to Washington consumers that it was located in Kansas. The Kansas Bank's letter further represented that it intended to register as "Peoples Bank of Kansas" with Washington state authorities.

3.11. In 2013, Peoples Bank learned that despite these assurances and representations, the Kansas Bank continues, without implementing any of the restrictions or taking any of the acts represented in their letter, to freely use the PEOPLES MARKS in soliciting Washington consumers for financial products and services (e.g., Exhibit C to this Complaint). The Kansas Bank's failure to cease and desist, among other acts, evidences its bad faith and willful intent to create actual consumer confusion.

3.12. The cost to Peoples Bank of rebranding its products and/or distinguishing them from those of the Kansas Bank will far exceed \$75,000 if Kansas Bank is not enjoined from using the PEOPLES MARKS in soliciting Washington consumers for any financial products and services.

IV. FIRST CAUSE OF ACTION

False Designation of Origin (15 U.S.C. § 1125(a)(1)(A))

4.1. Peoples Bank re-alleges and incorporates by reference paragraphs 1.1 through 3.12.

4.2. Peoples Bank holds common law and statutory rights to the exclusive use of the PEOPLES MARKS in Washington. "Peoples" is the distinctive and protectable portion of the

marks, and therefore Peoples Bank's rights therein extend to use of all the PEOPLES MARKS for any financial products and services in Washington.

4.3. The Kansas Bank's use of the PEOPLES MARKS to advertise to and solicit Washington consumers to purchase financial products and services is a false designation of those goods and services.

4.4. The Kansas Bank uses the PEOPLES MARKS in interstate commerce by, among other acts, sending advertisements and solicitations bearing one or both of such marks through the U.S. Mail.

4.5. The Kansas Bank uses the PEOPLES MARKS in connection with goods and services - namely, financial products and services. These products travel in interstate commerce, since Kansas Bank is located in Kansas and has no Washington-based branches, offices or other operations.

4.6. The Kansas Bank's use of the PEOPLES MARKS is likely to cause consumer confusion in Washington about the origin of goods and services offered under the marks.

4.7. The Kansas Bank's use of the PEOPLES MARKS has damaged and if not enjoined will continue to damage Peoples Bank.

V. SECOND CAUSE OF ACTION

Trademark Infringement (RCW 19.77.140)

5.1. Peoples Bank re-alleges and incorporates by reference paragraphs 1.1 through 3.12.

5.2. Peoples Bank holds common law and statutory rights to the exclusive use of all the PEOPLES MARKS in Washington.

5.3. By advertising, selling, and offering to sell financial products and services to Washington consumers under the PEOPLES MARKS, the Kansas Bank is copying, counterfeiting, and imitating the marks.

1 5.4. The parties are in the same business and offer the same or substantially similar
2 products and services, and the Kansas Bank's use of the PEOPLES MARKS in Washington is
3 likely to cause consumer confusion or mistake about the source and origin of those goods and
4 services.

5 5.5. Peoples Bank has expressly withheld its consent for the Kansas Bank to use the
6 PEOPLES MARKS in Washington.

7 5.6. Despite this and in violation of its assurances and representations otherwise, the
8 Kansas Bank continues to use and thereby willfully intends its use of the PEOPLES MARKS to
9 create actual consumer confusion in Washington. The Kansas Bank is acting in bad faith.

10 **VI. THIRD CAUSE OF ACTION**

11 **Trademark Dilution (RCW 19.77.160)**

12 6.1. Peoples Bank realleges and incorporates by reference paragraphs 1.1 through 3.12.

13 6.2. Peoples Bank's use of the PEOPLES MARKS continuously in Washington for
14 decades to promote financial products and services has made the mark famous to consumers in
15 this state.

16 6.3. By advertising, selling, and offering to sell financial products and services to
17 Washington consumers under the PEOPLES MARKS, the Kansas Bank is diluting the value of
18 the PEOPLES MARKS that Peoples Bank has spent considerable time and resources building.

19 6.4. Despite Peoples Bank's demand and in violation of its agreement otherwise, the
20 Kansas Bank continues to use and thereby willfully intends to dilute the PEOPLES MARKS.
21 The Kansas Bank is acting in bad faith.

22 **VII. FOURTH CAUSE OF ACTION**

23 **Violation of the Consumer Production Act (RCW 19.86.10, et seq.)**

24 7.1. Peoples Bank realleges and incorporates by reference paragraphs 1.1 through 3.12.

25 7.2. The Kansas Bank, by soliciting Washington consumers using the PEOPLES
26 MARKS, is engaged in an unfair and deceptive practice.

7.3. The Kansas Bank employs the PEOPLES MARKS through, and sells products and services in, the stream of commerce.

7.4. The public has an interest in truthful and accurate information about the origin of financial products and services, and the Kansas Bank's use of the PEOPLES MARKS in Washington has the capacity to deceive a substantial portion of Washington consumers.

7.5. The Kansas Bank's use of the PEOPLES MARKS has injured Peoples Bank by diverting its customers, diluting its brand, and eroding its goodwill.

7.6. The Kansas Bank has caused Peoples Bank harm by using the PEOPLES MARKS to brand financial products and services in Washington.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays that the Court sustain its complaint and enter an order:

A. For temporary, preliminary, and permanent injunctive relief against the Defendant from using PEOPLES, PEOPLES BANK, or any confusingly similar marks in Washington;

B. For a money judgment in its favor and against the Defendant for:

- 1) actual damages in an amount to be proven at trial;
- 2) treble damages; and
- 3) Plaintiff's reasonable attorneys' fees and costs; and

C. For all other just and equitable relief that justice requires.

DATED this 19th day of July, 2013.

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